

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed July 19, 2005. Claims 1, 17, and 25 have been amended. Applicant respectfully requests reconsideration and favorable action in this case.

Claim Objections

Claim 25 stands currently objected to for informalities. Claim 25 has been amended to overcome the objection. Accordingly, withdrawal of this objection is respectfully requested.

Rejections under 35 U.S.C. § 112

Claims 1-8 and 17-26 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1 and 17 have been amended to obviate the rejection. Therefore, Applicants therefore respectfully request the Examiner withdraw the rejection.

Rejections under 35 U.S.C. § 103

Claims 1-2, 5-7, 9-10, 13-15, 17-20 and 23-25 stand rejected as obvious over U.S. Publication No. 20030023662 ("Yaung") in view of U.S. Publication No. 20020133635 ("Schechter"). Claims 3-4, 8, 11-12, 16, 21-22, and 26 stand rejected as obvious in view of Yaung and Schechter, further in view of U.S. Patent number 6,647,396 to Parnell et al ("Parnell"). Yaung is used in every rejection, thus Yaung is the primary reference.

Applicant respectfully traverses this rejection. More specifically, Applicant respectfully submits that the subject matter of Claims 1-26 of the present application was invented prior to the effective date of the Yaung reference.

The effective date of a U.S. patent, U.S. patent application publication, or international application publication under PCT Article 21(2), is the earlier of its publication date or date that it is effective as a reference under 35 U.S.C. 102(e). See 37 C.F.R. 1.131. Applicant notes that the effective date on which the Yaung reference becomes available as prior art is the U.S. Patent Application filing date of July 30, 2001. Applicant respectfully submits that the subject matter of the present application was invented before the July 30, 2001 effective date of the Yaung reference.

Mr. Eric White conceived of the invention of the present application prior to July 30, 2001, the filing date of the Yaung reference. More specifically, the invention of the present application was conceived on or before July 27, 2001, as evidenced by the email and attachment sent by Mr. White on July 27, 2001. The attachment to the email of July 27, 2001 demonstrates a conception of the invention described and claimed in the present application. See, Declaration Under 37 C.F.R. 1.131 (the "White Decl.") ¶¶1-7, appended hereto as Exhibit 1. Additionally, the invention of the present application was reduced to practice prior to July 30, 2001 as evidenced by the email sent by Mr. White on July 30, 2001. See the White Decl. ¶6.

As the subject matter of the present application was conceived and reduced to practice on or before July 30, 2001, Applicant respectfully submits that the subject matter of the present application was invented prior to July 30, 2001, the effective date on which the Yaung reference is available as prior art under 35 U.S.C. 102(e). Consequently, Applicant respectfully submits that the Yaung reference is not available as prior art under 35 U.S.C. 102 or 103, and respectfully requests the withdrawal of the rejections of Claims 1-26.

Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-26. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

Sprinkle IP Law Group
Attorneys for Applicant



John L. Adair
Reg. No. 48,828

Date: October 14, 2005

1301 W. 25th Street, Suite 408
Austin, TX 78705
Tel. (512) 637-9220
Fax. (512) 371-9088